



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**ARIZONA MINORITY COALITION FOR FAIR REDISTRICTING
et al. v. THE ARIZONA INDEPENDENT REDISTRICTING
COMMISSION et al.,
Supreme Court No. CV-08-0161-PR**

PARTIES AND COUNSEL:

Petitioners: Arizona Minority Coalition for Fair Redistricting (“Coalition”); Ramon Valadez; Peter Rios; Carlos Avelar; James Sedillo; Mary Rose Garrido Wilcox; Esther Lumm; Virginia Rivera; and Los Abogados, represented by Richard A. Halloran, Lawrence A. Kasten and Kimberly A. Demarchi, Lewis and Roca, LLP and Paul F. Eckstein, Charles A. Blanchard and Rhonda L. Barnes, Perkins Coie Brown & Bain, P.A.

Respondents: Arizona Independent Redistricting Commission (“Commission”); and Commissioners Steven M. Lynn; Andrea M. Minkoff; Daniel R. Elder; Joshua M. Hall; and James R. Huntwork, represented by Lisa T. Hauser and Cameron Artigue of Gammage & Burnham and Jose de Jesus Rivera and Peter Limperis of Haralson, Miller, Pitt, Feldman & McAnally, P.L.C.

FACTS:

In 2000 Arizona voters passed Proposition 106 (codified in Arizona Constitution Art. IV, part 2, §1, subsecs. 3-23), which created the Commission to create fair voting districts. The Coalition filed this action in March 2002, asserting the Commission failed to favor competitive districts to the extent the Arizona Constitution requires. In January 2004, Judge Kenneth Fields found the plan to be unconstitutional under a strict scrutiny standard of review, in that the Commission incorporated all its assigned considerations into its maps, but failed to achieve the constitutional goal of competitive districts. He ordered the creation of new maps. The court of appeals reversed. *Arizona Minority Coalition for Fair Redistricting v. Arizona Indep. Redistricting Commission*, 211 Ariz. 337, 121 P.3d 843 (2005) (*Redistricting I*). It held the trial court erred by (1) applying the strict scrutiny standard to evaluate the equal protection claims; (2) requiring the Commission to adopt definitions for terms before using them; (3) requiring the Commissioners to ignore personal knowledge and experience; (4) failing to treat competitiveness as a

subordinate goal; and (5) finding the Commission had violated Article 4, Part 2, § 1(15) of the Arizona Constitution. The court of appeals remanded for proceedings consistent with its opinion: the trial court was not to treat competitiveness as equally important as the other criteria, substitute its judgment for the Commission's, or compare the adopted legislative plan to other plans to decide whether any complies "better" with Arizona's Constitution. The Arizona Supreme Court denied review.

On remand to the trial court, the parties agreed no new trial was necessary and stipulated to some amendments to the record. The Coalition advised the court it was not pursuing its equal protection claims. The court heard oral argument. Applying the court of appeals opinion and a rational basis standard of review, the trial court found that the Commission acted arbitrarily and capriciously in failing to favor competitive districts and in failing to determine whether competitive changes would cause significant detriment to the other redistricting goals.

The Commission again appealed, claiming the record did not support the findings. The court of appeals agreed and reversed in part and vacated in part. *Arizona Minority Coalition for Fair Redistricting v. Arizona Indep. Redistricting Commission*, 1 CA-CV 07-0301 (April 10, 2008) (*Redistricting II*). It asked whether the Commission, as a constitutional administrative body, was supported in its decision by evidence in the record. For example, the court noted the Commission did not adopt any proposed map that would have increased competitiveness, having decided that those alternative maps caused significant detriment to the other constitutional goals. The court of appeals did not analyze the trial court's ruling by a rational basis standard, because that ruling concerned equal protection and the Coalition abandoned its equal protection claims on remand.

The court of appeals concluded the Commission followed the four-phase plan that the court described in *Redistricting I*. Following creation of the grid-like pattern on the map, phase two calls for adjustments to accommodate the six constitutional goals.¹ After stating that the Commission "followed the constitutional plan," including favoring competition to the extent practicable without creating "significant detriment to the other goals," the court then stated that the Constitution does not "enumerate the manner in which competitiveness should be considered nor does it require objective testing to show significant detriment." Looking at the totality of the circumstances, the court of appeals held the Commission's consideration of competitiveness did not violate the Arizona Constitution and its findings were supported by substantial evidence.

ISSUES:

1 Compliance with the U.S. Constitution and Voting Rights Act; equal population to the extent practicable; geographically compact and contiguous to the extent practicable; respecting communities of interest to the extent practicable; use of visible geographic features, political subdivisions, undivided census tracts; and "to the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals." Arizona Constitution, article 4, part 2, section 1(14).

“1. Whether the Commission must ‘favor’ or merely ‘consider’ competitiveness in drawing legislative district lines.

“2. Whether the Commission must include all of the constitutional redistricting goals, including competitiveness, in the district maps prepared in phase two or whether it may defer consideration of those goals to a later phase.

“3. Whether the Commission must make objective findings of significant detriment to the other constitutional goals when rejecting more competitive redistricting plans.

“4. Whether the findings of the trial court are entitled to review under the clearly erroneous standard.”

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